



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/562,349	05/04/2006	Ulrich Brochheuser	GKNG1264/36249-25	5630		
27256	7590	02/17/2009	EXAMINER			
Dickinson Wright PLLC 38525 Woodward Avenue Suite 2000 Bloomfield Hills, MI 48304				SULLIVAN, DEBRA M		
ART UNIT		PAPER NUMBER				
3725						
MAIL DATE		DELIVERY MODE				
02/17/2009		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte:* ULRICH BROCHHEUSER  
and ANDREAS GEHRKE

---

Application No. 10/562,349  
Technology Center 3700

---

Mailed: 17 February 2009

---

Before KRISTA ZELE *Deputy Chief Appeals Administrator.*  
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 16, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S ANSWER, EVIDENCE RELIED UPON**

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 7, July 2008) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed August 4, 2008 is deficient because the "Evidence Relied Upon" section fails to include the reference Budrean et al. (US Patent 4,785,648) cited on page 4 in the Examiner's Answer's grounds of rejection of Claims 8 and 10 rejected under 35 U.S.C. § 103(a) as being unpatentable over Admitted prior art in view of Ilhara et al. as applied to claim 1 above, and further in view of Budrean et al (US Patent #4,785,648).

Appropriate correction is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to issue a PTOL-90 citing the missing reference listed under the Evidence Relied Upon section, paragraph (8); and
- 2) for such further action as may be required.

KZ/MTV/yr

DICKINSON WRIGHT PLLC  
38525 WOODWARD AVENUE  
SUITE 2000  
BLOOMFIELD HILLS, MI 48304